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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/001,772	10/31/2001	Anand Subramanian	03485/100H799-US1	4306
7278	7590	05/11/2009		
DARBY & DARBY P.C. P.O. BOX 770 Church Street Station New York, NY 10008-0770			EXAMINER ALVAREZ, RAQUEL	
			ART UNIT 3688	PAPER NUMBER
			MAIL DATE 05/11/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action**  
**Before the Filing of an Appeal Brief**

**Application No.**

10/001,772

**Applicant(s)**

SUBRAMANIAN ET AL.

**Examiner**

Raquel Alvarez

**Art Unit**

3688

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 27 April 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 15, 16, 21, 22 and 27-89.  
Claim(s) withdrawn from consideration: 1-14, 17-20 and 23-26.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/Raquel Alvarez/  
Primary Examiner, Art Unit 3688

Continuation of 11, does NOT place the application in condition for allowance because: Applicant argues that Emens doesn't teach displaying the requested content and the targeted ad together. The Examiner wants to point out that Emens teaches on col. 7, lines 11-18, "the request server 160 then builds a results page which contains the search result items, and if the search result item was flagged as a having a product match, a product icon or graphical user interface designator is also displayed for subsequent user selection. The search result items and associated product icons are then displayed 98 to the browser 100". As stated clearly from Emens above, the search result item is displayed along with the matching product icon. The product icon is a targeted advertisement based on the search result. Emens clearly teaches the recited claim limitation of "directly send the targeted ad to the station for display with the content" as stated above, in Emens, the targeted product icon is sent to the user station along with the search result (Emens col. 7, lines 11-18).

With respect the content being accessed in response to the submission of a URL by the user. The Examiner wants to point out that in Herz the user inputs the URL in order to receive content from a particular website and in Emens the user inputs keywords in order to receive the content. Modifying Emens to incorporate Herz teachings will produce a system wherein the user uses the URL instead of keywords to receive the content. This change is obvious and well known for users to use company's URL in order to obtain direct access to the information needed and therefore contrary to Applicant's arguments, the references do not teach away from each other.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant argues that the references do not teach a set of relevancy rules associated with each ad. The Examiner disagrees with Applicant because Emens clearly teaches on col. 4, lines 54-58, "The method of the instant invention follows an approach uniquely different from the e-commerce method of user profiling. Instead of using user profiles to target advertisement, the resultant search result items from a search engine performing an Internet search are utilized. These search result items are associated with similar or related advertisements." The advertisements displayed to the users matches the search result item, as can be seen by above the ads are based on relevancy rules associated with the search results and not based on profiling or any information about the user or any intervening entities. Therefore Emens teaches associating the advertisements based on certain rules of the advertisements (i.e. search results) and displaying the ads based on the ads that matches the search results.

With respect to the official notice taken by the Examiner that monitoring the amount of click through of an ad and classifying information based on past consumption of prior products or coupons redemption by the consumer are well known. Applicant asserts that Emens or Herz do not teach such functions, but this is not relevant to the use of Official Notice. While applicant may challenge the examiner's use of Official Notice, applicant needs to provide a proper challenge that would at least cast reasonable doubt on the fact taken notice of. See MPEP 2144.03 where *In re Boon* is mentioned.